

EXPRESS MAIL NO.: EV 809 055 374 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Wimmer *et al.* Confirmation No.: To Be Assigned  
Application No.: To Be Assigned Art Unit: To Be Assigned  
(National Stage of PCT/CH2004/000131,  
filed March 5, 2004)  
Filed: On Even Date Herewith Examiner: To Be Assigned  
For: USE OF A MIXTURE FOR THE PRODUCTION  
OF AN AGENT FOR TREATING DEFECTIVE  
OR DEGENERATED CARTILAGE IN THE  
PRODUCTION OF NATURAL CARTILAGE  
REPLACEMENT *IN VITRO* Attorney Docket No.: 8932-1289-999

INFORMATION DISCLOSURE STATEMENT

Mail Box PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

1. Enclosures accompanying this Information Disclosure Statement are:
  - 1a. ☒ A list of all patents, publications, applications, or other information submitted for consideration by the office.
  - 1b. A legible copy of :
    - ☒ Each publication or that portion which caused it to be listed on the PTO-1449;
    - ☐ For each cited pending U.S. application filed before June 30, 2003, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
    - ☐ all other information or portion which caused it to be listed on the PTO-1449.
  - 1c. ☒ A copy of the international search report from related PCT International Search Report of PCT/CH2004/000131, filed March 5, 2004, as reference C05.
  - 1d. ☒ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications (*i.e.*, reference B01).
  - 1e. ☒ Pursuant to 37 C.F.R. §1.98(a)(2)(ii), copies of the cited U.S. patents and U.S. patent application publications (*i.e.*, references A01 and A02) are not submitted herewith.

2. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
- ☒ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);
  - ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;
  - ☐ Before the mailing of the first Office action on the merits;
  - ☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
3. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

*(Check either Item 3a or 3b)*

- 3a. ☐ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:
- ☐ enclosed
  - ☐ to be charged to Jones Day Deposit Account No. 50-3013.

*(Item 3b to be checked if any reference known for more than 3 months)*

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

The Certification Statement in Item 5 below is applicable.

The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:

- ☐ enclosed.
- ☐ to be charged to Jones Day Deposit Account No. 50-3013

5. ☐ Certification Statement (applicable if Item 3a or Item 4 is checked)

*(Check either Item 5a or 5b)*

- 5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. ☐ Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.

- 5c. ☐ Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
6. ☐ This application is a continuation application under 37 C.F.R. §§1.53(b) or (d).  
*(Check appropriate Items 6a, 6b and/or 6c)*
- 6a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b. ☐ Copies of publications listed on Form PTO-1449 from prior application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_, of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c. ☐ Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_, and are provided herewith.
7. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on \_\_\_\_\_. A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on \_\_\_\_\_.
8. ☐ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:  
*( Check Item 8a, 8b, or 8c)*
- 8a. ☐ satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b. ☐ set forth in the application.
- 8c. ☐ enclosed as an attachment hereto.
9. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Jones Day Deposit Account No. 50-3013.

IAP12 Rec'd PCT/PTO 05 SEP 2006

10. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability and no representation is made that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Respectfully submitted,

Date: September 5, 2006

Brian M. Rothery  
Brian M. Rothery

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By: Ann W. Chen  
Ann W. Chen

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**LIST OF REFERENCES CITED BY APPLICANT**

(Use several sheets if necessary)

ATTY. DOCKET NO.

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**U.S. PATENT DOCUMENTS**

*Examiner Initials		Document Number	Date mm/dd/yy	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	A01	5,470,578	11/28/95	Aoki <i>et al.</i>	column 2, lines 32-38; column 5, lines 12-16; column 13, lines 59-64
	A02	5,036,056	07/30/91	Kludas	column 15; figures 11, 12, 18

**FOREIGN PATENT DOCUMENTS**

*Examiner Initials		Foreign Patent Document Country Code, Number, Kind Code (if known)	Date mm/dd/yy	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T
	B01	JP 2002 348243 A	12/04/02	Denki Kagaku Kogyo KK	paragraph 001; paragraphs 0010-0012; paragraph 0021; paragraph 0026; paragraphs 0030-0038	
	B02	WO 03/007784 A2	01/30/03	Depuy Products, Inc.	page 4, lines 14-31; page 26, line 30 to page 27 line 9; page 31, line 33 to page 32, line 5	
	B03	WO 02/062847 A2	08/15/02	Glaxo Group Limited; Rush Presbyterian St. Luke's Medical Center	page 2, lines 17-25; page 4, lines 14-28 page 8, lines 15-23 page 15, lines 8-21; page 17, lines 2-3; page 19, lines 7-21	
	B04	WO 01/68800 A1	09/20/01	The Trustees of Columbia University in the City of New York	page 1, lines 6-10; page 23, lines 23-29	
	B05	WO 89/01777	03/09/89	Macnaught PTY Limited	page 1, lines 1-15; page 3, lines 1-10; page 4, line 22 to page 5, line 28; figure 10	

**NON PATENT LITERATURE DOCUMENTS**

*Examiner Initials		Include name of the author (in CAPITAL LETTERS), (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T
	C01	Kawano <i>et al.</i> "Mechanical effects of the intraarticular administration of high molecular weight hyaluronic acid plus phospholipid on synovial joint lubrication and prevention of articular cartilage degeneration in experimental osteoarthritis." Arthritis Rheum. 2003 Jul;48(7):1923-9.	

EXAMINER

DATE CONSIDERED

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

10/591833 Sheet 2 of 2

**LIST OF REFERENCES CITED BY APPLICANT**  
(Use several sheets if necessary)

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	C02	Grad <i>et al.</i> "Chondrocyte SZP/lubricin expression is mediated by applied surface motion." Tissue Eng. 2003 Sept;9(4):797-8.	
	C03	Grad <i>et al.</i> "The use of biodegradable polyurethane scaffolds for cartilage tissue engineering: potential and limitations." Biomaterials. 2003 Dec;24(28):5163-71.	
	C04	Jay <i>et al.</i> "Comparison of the boundary-lubricating ability of bovine synovial fluid, lubricin, and Healon." J Biomed Mater Res. 1998 Jun 5;40(3):414-8.	
	C05	International Search Report of PCT/CH2004/000131.	

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